

court of impeachment in the case of Judge Chambers, of the First Judicial District. Carried.

The President instructed the secretary of the Senate to inform the board of Managers of the House of the fact that the Senate is now sitting as a high court of impeachment in the case of Judge Chambers, of the First Judicial District.

Senator Ireland moved a recess of fifteen minutes, in order to make the necessary arrangements to receive the board of managers, etc. Carried.

At the expiration of the time, the President called the Senate to order. Roll called; quorum present.

The sergeant-at-arms announced the board of managers from the House, in the case of Judge Chambers, of the First Judicial District, consisting of Messrs. Simpson, Epperson, Farrar, Delany and O'Neal. They were admitted within the bar of the Senate and seated.

On motion of Senator Dillard, the respondent, Judge Chambers, who was present, was invited to a seat within the bar of the Senate.

The President announced that Lucien Beck, the special sergeant-at-arms, who was sent to serve citation on Judge Chambers, had, as yet, made no return of his action in said case.

Senator Ireland stated that he supposed it would be competent for the respondent, who was present, to answer whether any citation had been served on him to appear before the Senate.

The respondent desired to know whether the court had the authority to make the inquiry, and force him to answer.

The President stated that the court did not propose to force the respondent to answer, but left it optionary with him to answer or no.

The respondent stated that when the sergeant-at-arms made his return, with an endorsement that he had summoned the said respondent, then he (the respondent) would answer "ready for trial."

On motion of Senator Ireland, the President of the Senate was requested to telegraph to Lucien Beck, the special sergeant-at-arms, to appear here immediately.

Mr. Epperson, of the board of managers, moved "that *alias* process shall issue to the defendant, and that he be duly cited to appear and answer immediately." Adopted by the following vote:

Yeas—Senators Allison, Ball, Bradley, Burton, Camp, Davenport, Dillard, Dwyer, Ellis, Erath, Friend, Hobby, Ireland, Ledbetter, Moore, Parker, Randle, Russell, Stirman, Swift, Trolinger, Westfall and Wood—23.

Nays—None.

On motion of Senator Ireland, the high

court of impeachment adjourned till 12 o'clock A. M. to-morrow.

IN SENATE.

Under the resolution adopted this morning, employing a stenographer to take down testimony in the case of Judge Chambers, etc., the President appointed Captain E. G. Dill.

On motion of Senator Wood, the Senate adjourned to 10 o'clock A. M. to-morrow.

#### FORTIETH DAY.

SENATE CHAMBER,  
AUSTIN, March 3, 1874.

Senate met pursuant to adjournment. Roll called; quorum present.

Prayer by the chaplain.

On motion of Senator Ball, the reading of the journal of yesterday was dispensed with.

Senator Friend presented the memorial of citizens of San Patricio county. Read and referred to Committee on Roads, Bridges and Ferries.

Senator Ireland, chairman of Judiciary Committee, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Judiciary, to whom was referred Senate bill No. 192, "An act to validate assessments made by assistant assessors," instruct me to report the same back to the Senate, and recommend that it do pass.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee, to whom was referred Senate bill No. 189, "An act to authorize justices of the peace to employ assistant assessors in certain cases," respectfully report the same back and recommend its passage.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee, to whom was referred House bill No. 4, "An act to fix the venue in certain cases," instruct me to report it back with the following amendments: Amend by inserting in line three, after the word "corporation," the words "including railroad companies;" and amend by striking out all of section two after the word "agent;" and recommend its passage, as amended.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee, to whom was referred Senate bill No. 87, "An act to refund the one per cent. school tax," have had the same under consideration, and, in the opinion of the committee, said bill ought not now to pass.

The whole question is yet before the courts, and if it should ultimately be de-

cided that the tax was illegally collected, it might then be proper to refund.

IRELAND, Chairman.

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee, to whom was referred Senate bill No. 180, "An act to validate certain agreements filed in the office of the Secretary of State, in accordance with the requirements of 'An act concerning private corporations,'" approved December 2, 1871, report the same back, with the recommendation that it do pass.

IRELAND, Chairman.

Senator Moore introduced a bill entitled "An act to repeal an act entitled 'An act to regulate the sale of lands under decrees of courts,'" approved August 13, 1870; and an act entitled "An act to repeal the third section, and to amend the second section of 'An act to regulate the sale of lands under decrees of courts,'" approved August 13, 1870, approved May 8, 1871. Read first time and referred to Judiciary Committee.

Senator Russell offered the following resolution:

*Resolved,* That the address against Judge J. J. Thornton be withdrawn.

Resolution read first time, and, on motion of Senator Ireland, the rules were suspended, resolution read second time, and adopted.

Senator Davenport introduced a bill entitled "An act to incorporate Little River Bridge Company." Read first time, and referred to Judiciary Committee.

Senator Wood introduced a bill, entitled "An act concerning notaries public." Read first time and referred to Judiciary Committee.

Senator Wood introduced a bill, entitled "An act to regulate common carriers." Read first time and referred to Judiciary Committee.

A message was received from the House, announcing that the House concurs in Senate amendment to address, asking the removal of Henry Maney, judge of the Twenty-second Judicial District, and has ordered that said amendment be spread upon the journals of the House; also announcing that the House had concurred in the Senate resolution withdrawing the address preferred against Judge J. J. Thornton.

Senator Parker introduced a bill, entitled "An act to authorize the county courts of the several counties in this State to build bridges and causeways, and to keep up and improve bridges, causeways, and public roads." Read first time and referred to Committee on Roads, Bridges and Ferries.

Senator Swift introduced a bill, entitled "An act to amend 'An act to organize the courts of justices of the peace and county courts, and to define their jurisdiction and duties,'" approved August 13, A. D. 1870. Read first time and referred to Judiciary Committee.

Senator Erath moved to reconsider the vote taken on yesterday, adopting the substitute offered by Senator Hobby for Senate bill No. 152, "An act to repeal all laws empowering counties, cities and towns to levy taxes for the purpose of making donations to railroads and other corporations;" the title of the substitute adopted being, "An act to authorize counties to aid in the construction of railroads and other works of internal improvements by taking stock in the same." Laid over under the rules.

Senator Westfall moved that the rules be suspended to take up House bill No. 214, "An act to provide money to pay the floating indebtedness of the State." Carried. Rules suspended, bill taken up and read first time.

On motion of Senator Wood, the rules were suspended and bill read second time.

Senator Wood offered the following amendment: Amend section six by adding after the word "date," in ninth line, the following: "also, indebtedness against the State, authenticated by the certificates of the late auditorial board, which indebtedness has not, up to this date, been bonded; and which indebtedness to be paid under this act shall not exceed the sum of thirty thousand dollars; and the certificate of the auditorial board shall be sufficient authority for the Comptroller to draw his warrant on the Treasurer for payment of the same." Lost by the following vote:

Yeas—Senators Ball, Ellis, Erath, Ireland, Ledbetter, Moore, Randle, Russell and Wood—9.

Nays—Senators Allison, Bradley, Burton, Camp, Davenport, Dillard, Dwyer, Friend, Hobby, Parker, Stirman, Swift, Trolinger and Westfall—14.

(Senator Ireland in the chair.)

The bill was then read third time and passed by the following vote:

Yeas—Senators Allison, Ball, Bradley, Burton, Camp, Davenport, Dillard, Dwyer, Ellis, Erath, Friend, Hobby, Ireland, Ledbetter, Moore, Parker, Randle, Russell, Stirman, Swift, Trolinger, Westfall and Wood—23.

Nays—None.

Senator Dwyer moved to suspend the rules to take up Senate bill No. 148, "An act to limit the amount to be issued in bonds of the State to the International Railroad Company, and to provide for the payment of the same."

Rules suspended, bill taken up, and on motion of Senator Dwyer, was made special order for Thursday, the 12th inst., at 11 A. M., and to continue as the special order from day to day until disposed of.

(Mr. President in the chair.)

On motion of Senator Ball, the rules were suspended to take up House bill No. 128, "An act to provide for the protection of the

frontier of the State of Texas against the invasion of hostile Indians, Mexicans or other marauding or thieving parties."

On motion of Senator Ball, the bill was made the special order for Friday next, at 11 A. M., one hundred copies ordered printed, and to continue as special order from day to day until disposed of.

On motion of Senator Westfall, Senator Flanagan was excused for the day, on account of illness.

Senator Friend moved a suspension of the rules to take up House bill No. 133, "An act to better define and enlarge the boundaries of Wilson county."

Senator Ireland moved to adjourn till 12 o'clock M. Carried.

The hour of 12 o'clock having arrived, the President called the Senate to order.

Roll called; quorum present.

The President announced that the hour having arrived for the Senate to resolve itself into a high court of impeachment for the trial of Judge Chambers, of the First Judicial District, the Senate resolved itself into said court.

#### IN COURT.

The President asked the secretary whether process had been served upon Judge Chambers.

The secretary replied that process had been served.

The secretary then swore the sergeant-at-arms as follows:

You, Elliott Shropshire, sergeant-at-arms of the Senate of the Fourteenth Legislature of the State of Texas, do solemnly swear that the return made by you upon the process issued on the second day of March, 1874, by the Senate of the State of Texas, against Judge William Chambers, of the First Judicial District of the State of Texas, is truly made; and that you have performed such service as therein described, so help you God.

The secretary was instructed to inform the board of managers of the House, and the House, that the Senate is now sitting as a high court of impeachment, for the trial of Judge Chambers, of the First Judicial District of the State of Texas, and is now ready to receive the board of managers.

The secretary returned, and announced that he had carried out his instructions.

The sergeant-at arms then made proclamation, as follows:

"Hear ye! hear ye!! hear ye!!! All persons are commanded to keep silence on pain of imprisonment, while the Senate of the State of Texas is sitting as a high court for the trial of articles of impeachment, against William Chambers, Judge of the First Judicial District of the State of Texas, God save the State of Texas and this honorable court."

The sergeant-at-arms announced the board

of Managers. They were recognized by the president of the court, and seated within the bar of the Senate.

By order of the Senate, the sergeant-at-arms then called the respondent into court, who came forward and took a seat within the bar of the Senate.

The board of managers announced themselves "ready for trial."

The address, containing the charges against Judge Chambers, was then read.

A demurrer to the address just read was then presented by Judge Chambers, and read, which was as follows:

The House of Representatives of the State of Texas *et al* v. Wm. Chambers, judge of the First Judicial District of the State of Texas.

1. Now comes Wm. Chambers, judge of the First Judicial District of the State of Texas, respondent to the thirteen articles of impeachment preferred against him, and demurs to the sufficiency of each and every article thereof because the same are insufficient under the Constitution and laws of the State to put him on his trial.

2. Because said articles are preferred against him without any lawful or Constitutional authority, in this especially, that said articles are without authentication, not being attested by the chief clerk of the House of Representatives, nor approved by the Speaker of the House of Representatives, nor identified by a mark, for which respondent moves the court to quash said articles, and that he be discharged.

3. Because said prosecution is not carried on by any legally responsible party, nor by any legally responsible authority, nor in accordance with the forms and requirements of law.

4. Because said articles of impeachment were not adopted or enacted by a House of Representatives in the form and manner required by the Constitution of Texas, in this, that said Constitution declares that "no bill shall have the force of a law until on three several days it be read in each house and free discussion be allowed thereon, unless in case of great emergency four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule," whereas, in truth and in fact said bill of impeachment was neither read for three several days, nor was said four-fifths rule dispensed with, nor was there any emergency, great or small, for doing so; and respondent respectfully prays the court that the truth of this plea be inquired into by the court, and if found to be true, that respondent be discharged.

5. Because this Legislature has no lawful jurisdiction over the unfinished business of a defunct Legislature.

6. Because, as no judge can lawfully sit in his own case, neither can a judge or

other person be tried by his prosecutor or accuser.

7. Because, articles of impeachment can only be lawfully preferred for *crimes* committed in violation of the written laws of the State, and no one can be held answerable or "punished for any act or omission as a penal offense unless the same is expressly defined and the penalty affixed by the written law of this State." (See Art. 3, Criminal Code, and Sec. 16, Bill of Rights.)

8. Because, articles one and two charge respondent with being guilty of "a high crime," whereas, no such offense as the offense of a "high crime" is defined in the Criminal Code, nor made by the Constitution or laws of the State of Texas cause for impeachment.

9. Because, articles from four to thirteen inclusive, charge respondent with "malfeasance in office," whereas, no such acts as charged are defined in the Code as malfeasance in office, nor made by the Constitution or laws of Texas cause for impeachment.

10. Because the charge of perjury, as made and preferred in article three, is not made in the words of the statute defining said offense, nor in language equivalent to the language of the statute in such case made and provided, and for other defects apparent on the face of the charge, and are therefore insufficient in law to compel respondent to answer further.

11. Because respondent cannot be lawfully impeached under any existing Constitution or laws in force in the State of Texas.

#### WM. CHAMBERS.

Mr. Epperson on the part of board of managers, announced that the managers would not argue the points treated of in said demurrer, unless the respondent saw fit to argue the same.

The respondent announced that he desired to argue the same.

The board of managers announced that they would agree that the respondent should argue his demurrer.

The president of the court decided that the board of managers had the right to open and close the argument, to which ruling the respondent objected, claiming that the respondent has the right to open and close.

Senator Wood offered the following:

It is ordered by the court that so far as the argument is concerned on the demurrer, filed by the defendant, that the defendant be permitted to open and close the argument.

Adopted, by the following vote:

Yeas—Senators Allison, Ball, Bradley, Burton, Camp, Davenport, Dillard, Dwyer, Ellis, Friend, Hobby, Ireland, Ledbetter,

Moore, Parker, Randle, Russell, Stirman, Swift, Trolinger, Westfall and Wood—22.

Nays—Senator Erath—1.

On motion of Senator Swift, the court adjourned to 3 p. m., this evening.

#### IN SENATE.

On motion of Senator Erath, the Senate adjourned till 3 p. m., this evening.

#### AFTERNOON SESSION.

Senate met pursuant to adjournment. Roll called; quorum present.

Senator Westfall presented the following report from the Committee on Enrolled Bills:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Enrolled Bills ask leave to report that they have carefully examined Senate bill No. 137, "An act making an appropriation to pay contingent expenses of Department of State," and find the same correctly enrolled, and have this day, March 3, at 11 o'clock A. M., presented the same to the Governor for his approval.

W. H. WESTFALL, for Committee.

On motion of Senator Ireland, the Senate adjourned to 10 A. M. to-morrow.

#### IN COURT.

Judge Chambers, the respondent, then addressed the court.

At the expiration of the time allowed by law, the President suggested that he had occupied the allotted time and could not proceed further unless by the consent of the court, which he hoped the court would grant.

On motion of Senator Ireland, the court extended the time half an hour.

The respondent then continued his argument.

At the close of the argument of the respondent, Mr. Epperson, of the board of managers, addressed the court.

Mr. Delany, of the board of managers, then addressed the court.

Senator Ireland moved that the court adjourn till 7:30 p. m.

The respondent desired to know whether, under the rules, he had a right to make a motion regarding adjournment.

The President decided that he had the right.

The respondent then asked that the court adjourn until some time to-morrow.

The vote was then taken on the motion offered by Senator Ireland, and the court adopted the same, adjourning to meet at the hour named 7 1/2 p. m.

#### EVENING SESSION.

The court met pursuant to adjournment; roll called; no quorum present.

Judge Chambers desired that the court adjourn until to-morrow at 12 M., stating

that he was unprepared, at this time, to argue his case as he desired.

After a few moments, a quorum was announced as being present.

The respondent, Judge Chambers, then renewed his motion to adjourn, and asked that the court stand adjourned until tomorrow at 3 o'clock p. m. Carried by the following vote:

Yeas—Senators Bradley, Burton, Davenport, Ellis, Erath, Hobby, Ledbetter, Moore, Stirman, Trolinger, and Wood—11.

Nays—Senators Ball, Camp, Dillard, Dwyer, Ireland, Parker, Russell, Swift, and Westfall—9.

#### FORTY-FIRST DAY.

SENATE CHAMBER,  
AUSTIN, March 4, 1874. }

Senate met pursuant to adjournment. Roll called; quorum present.

Prayer by the chaplain.

The reading of the journal of yesterday was dispensed with.

Senator Westfall stated that he had received a telegram from assistant secretary Lane, in which he stated illness as a cause for his non-appearance.

Senator Westfall, therefore, moved that he be excused until Friday. Granted.

A message was received from the House, announcing the passage by that body of Senate bill No. 156, "An act to authorize the Governor to sell certain bonds of the State, and to adjust and settle the indebtedness of the State with Williams & Guion.

Senator Wood presented a petition from citizens of the counties of Rusk and Henderson, praying for a new county out of the territory of said counties. Read and referred to Committee on Counties and County Boundaries.

Report from Committee on Federal Relations:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Federal Relations, to whom was referred Senate joint resolution, "authorizing and requiring the Adjutant General to make application to Gen. W. T. Sherman for an additional regiment of cavalry for frontier protection," have carefully considered the same, and instruct me to report the same back and recommend its passage.

MOORE, Chairman.

Report from Committee on Counties and County Boundaries:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Counties and County Boundaries, to whom was referred Senate bill No. 108, "An act to authorize the change of county seats," have carefully considered the same, and instruct me to re-

port it back, with the recommendation that it do not pass.

BRADLEY, for Committee.

Report from the Committee on Claims and Accounts:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Claims and Accounts, to whom was referred "the petition of J. C. Illingsworth," have carefully examined and considered the same, and being of opinion that this petition is in conflict with the Constitution, instruct me to report it back, with the recommendation that it do not pass.

W. H. SWIFT, Chairman.

Senator Wood introduced a bill, entitled "An act to provide for the opening and maintenance of the public roads and highways in this State." Read first time and referred to Judiciary Committee.

Senator Wood introduced a bill, entitled "An act supplemental to 'An act to provide for the incorporation of towns and cities,'" approved January 27, 1858. Read first time and referred to Judiciary Committee.

Senator Trolinger introduced a bill entitled "An act to amend 'An act to authorize the cancellation of patents in certain cases,'" approved February 3, 1854. Read first time and referred to Committee on Land Office.

Senator Davenport offered the following resolution:

*Resolved,* That the Committee on Contingent Expenses be and they are hereby instructed to audit the accounts for newspapers heretofore furnished Senators, and that hereafter only three copies of said papers be furnished to each Senator daily.

Laid over under the rules.

House bill No. 16, "An act to encourage stockraising and for the protection of stockraisers," was taken from the President's desk, read first time and referred to Judiciary Committee.

Senator Ireland introduced a bill entitled "An act to incorporate a Song Association, on York's creek, under the name and style of York's Creek Gesang Verein." Read first time and referred to Judiciary Committee. Senate bill No. 70, "An act for the relief of the several justices of the peace of the several counties in this State, making a list of the scholastic population of their respective counties, for the years A. D. 1872, and A. D. 1873," was read third time and passed.

Senator Dillard moved a suspension of the rules to take up Senate bill No. 100, "An act to reapportion the State of Texas into Congressional districts." Rules suspended, and bill taken up, and read second time.

Senator Dillard moved that the bill be read by sections. Adopted.

On motion of Senator Dillard, the first section was adopted.